IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

WA.No. 2230 of 2004

AGAINST THE JUDGEMENT IN WPC.17790/2004 Dated 16/06/2004
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APPELLANT/PETITIONER:

M/S. THAMARAPPILLY BROTHERS,
POST BOX 1069, M.G.ROAD, ERNAKULAM, A PARTNERSHIP FIRM, REPRESENTED BY ITS PARTNER,MR.DILIP JACOB.

BY ADV. SRI.P.RADHAKRISHNAN (1)
SRI.MADHU RADHAKRISHNAN

RESPONDENTS/RESPONDENTS:
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1. EXECUTIVE ENGINEER,
ELECTRICAL DIVISION, KERALA STATE ELECTRICITY BOARD, ERNAKULAM.

2. ASSISTANT EXECUTIVE ENGINEER,
ELECTRICAL DIVISION, KERALA STATE ELECTRICITY BOARD, ERNAKULAM.

3. STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 12/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No.2230 of 2004

Dated, this the 12th day of July, 2007

JUDGMENT

H.L.Dattu, C.J.

In this writ appeal the relief sought for by the appellant is as under:

> "Set aside the impugned judgment of the learned Single Judge passed in W.P.(C) No.17790 of 2004 and the modification of the judgment passed in Contempt of Court Case No.1169 of 2004."

2. In so far as the order passed by the learned Single Judge in W.P.(C) No.17790 of 2004 is concerned, we are of the opinion that by that order the learned Single Judge has granted substantial reliefs that was sought for by the petitioner and therefore, it cannot be said that the petitioner can be aggrieved by the orders passed by the learned Single Judge in the said writ petition. Therefore, the order passed by the learned Single Judge in the said writ petition need not be interfered by us.

3. After the disposal of the writ petition, the respondent Kerala State Electricity Board had issued yet another demand notice directing the appellant to pay interest on the penalty amount levied by the respondent. The appellant had questioned the said demand notice by filing an application I.A.No.10189 of 2004. The said application came to be rejected by the Court, with a direction to the appellant to file a contempt petition, if he so desires.

4. After the disposal of the said application, the appellant has filed a contempt petition in No.1169 of 2004. In that certain orders are made by the learned Single Judge. Aggrieved by that order passed in the contempt petition, the appellant is before us in this writ appeal.

5. If for any reason, the petitioner is aggrieved by the orders passed in the contempt proceedings, he cannot maintain the present writ appeal before us.

6. Section 5 of the Kerala High Court Act reads as under:

> **"5. Appeal from judgment or order of Single Judge.--** An appeal shall lie to a Bench of two Judges from --
>
> (i) a judgment or order of a Single Judge in the exercise of original jurisdiction; or
>
> (ii) a judgment of a Single Judge in the exercise of appellate jurisdiction in respect of a decree or order made in the exercise of original jurisdiction by a Subordinate Court."

7. In our view, Section 5 of the Kerala High Court Act provides for filing of the appeal under certain circumstances. The order impugned in this appeal does not fall under the circumstances mentioned therein. Therefore, the writ appeal requires to be rejected as not maintainable and it is accordingly rejected.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns/DK.